

08 CV 3440

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FREDERICK HENDERSON,

Plaintiff

ORDER TO SHOW CAUSE FOR  
PRELIMINARY INJUNCTION  
AND TEMPORARY  
RESTRAINING ORDER

CIVIL ACTION NO.

**Judge Berman**

v.

DR. DIANE SOMMER, M.D., CLINICAL  
DIRECTOR, FCI OTISVILLE; BARBARA  
BARBARA SULLIVAN, HEALTH SERVICES  
ADMINISTRATOR, FCI OTISVILLE;  
JEFFERY DRUMHELLER, ASSOCIATE  
WARDEN, FCI OTISVILLE; are sued in  
their individual and official capacities.

Defendants

**MEMO ENDORSED**  
P3

ORDER TO SHOW CAUSE  
FOR PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER

Upon the affirmation of plaintiff Frederick Henderson, Register No. 13219-014, sworn to the day of January 04, 2008, and upon the memorandum in support of motion and notice of motion for a temporary restraining order and preliminary injunction hereto annexed, it is ORDERED, that the above named defendants <sup>appear at a conference re: Pl's order to</sup> show cause before a motion term of this Court, at room 210, United States Courthouse, 500 Pearl Street, in the City, County and State of New York on May 1, 2008, at 2:30 o'clock in the ~~morning~~/afternoon thereof, or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to the Federal Rules Civil Procedure, Rule 65(a),(b). enjoining the defendants to, because of the exigent circumstances of this case, to immediately schedule and provide surgery described as arthroscopic surgery of plaintiff's right knee recommended by a legally qualified Orthopedic Specialist/Surgeon and approved by the Clinical Director Dr. Diane Sommer, M.D. at FCI Otisville, a facility of the Federal Bureau of Prisons, to repair plaintiff's diagnosed injury of a torn meniscus of the right knee.

And it is further ORDERED, that sufficient reason having been shown, therefore, pending the hearing of plaintiff's application for a temporary restraining order/preliminary injunction pursuant to Rule 65(a),(b). F.R.Civ.P. the defendants are temporarily restrained and enjoined from: (a) delaying in any way the scheduling of plaintiff's surgery known as arthroscopic surgery or other procedure as the Orthopedic Specialist/Surgeon deems necessary; (b) Release from current Federal custody until such injury is repaired and healed; (c) any retaliatory acts; (d) Not providing the current level of care including the present pain management medication Percocet® 5 mg./325 mg.; (e) providing the use of a cane and/or crutches and a lower bunk; and (f) not maintaining as patient plaintiff's medically unassigned status.

And it is further ORDERED, that security and bond be waived due to plaintiff's motion to proceed in forma pauperis and his affidavit of indigency that was annexed with this motion.

And it is further ORDERED, that personal; service of a copy of this order and annexed affidavit upon the defendants or their counsel on or before 3:00 o'clock in the ~~morning~~/afternoon, April 24, 2008, shall be deemed good and sufficient service thereof.

*Any responses to be served + filed by 4/30/08 (noon)*  
*RMB*  
 Date: 4/15, 2008  
 United States District Judge

*Richard M. Berman*

Interim relief denied as Courts  
generally do not involve themselves with  
the administration of BOP medical treat-  
ment (without prejudice). PL to serve  
all Docs forthwith. Conference on 5/1/08  
② 2:30 + 60 ut to arrange PL's appearance  
by phone.  
SO ORDERED:  
Date: 4/15/08 Richard M. Berman  
Richard M. Berman, U.S.D.J.